

REMARKS

The Office Action of June 10, 2004 has been carefully considered. It is noted:

Claims 1-28 are objected to as containing non-elected subject matter.

Claim 10 is provisionally rejected under obviousness-type double patenting over copending application No. 10/183,128.

Applicants have amended claims 1-28 to overcome the Examiner's objection by removing the non-elected subject matter from the claims according to the Examiner's suggestion. Specifically, the claimed compounds are no longer containing any heterocyclic or heteroaryl substituents. It is respectfully submitted that this amendment narrowing the scope of the claims are not made for the reason of any prior art issues and thus no prejudice should be attached to the patentability of the unclaimed subject matter, over which Applicants reserve the right to pursue patent protection in a timely filed divisional application.

Applicant further respectfully submit that the rejection of claim 10 under obviousness-type double patenting is improper as the cited pending application was filed after the present application and therefore it is not a prior art reference citable against the present application, although it may be proper to cite the present application as a basis for rejecting the pending application under obviousness-type double patenting.

It is respectfully submitted that, upon finding claim 1 allowable, claim 29 should be properly rejoined because it is a method of treatment claim which includes all limitations of claim 1 (see MPEP section 809).

In view of the present amendment, it is respectfully submitted that claims 1-29, as amended, are in proper condition for allowance, which are hereby earnestly solicited.



Respectfully submitted,


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